



APPENDIX

STATUTES INVOLVED

The applicable statutes are the Revenue Act of 1936, 49 Stat. 1648, the Revenue Act of 1938, 52 Stat. 447 and the Internal Revenue Code. The pertinent provisions of the Revenue Act of 1936 are as follows:

"SEC. 22. GROSS INCOME.

"(a) General Definition. — 'Gross income' includes gains, profits, and income derived * * * from professions, vocations, trades, businesses, commerce, or sales, or dealings in property, whether real or personal, *growing out of the ownership or use of or interest in such property*; also from interest, rent, dividends, securities, or the transaction of any business carried on for gain or profit, or gains or profits and income derived from any source whatever. * * *" (Our italics.) (49 Stat. 1657.)¹

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"Supplement E—Estates and Trusts

"SEC. 161. IMPOSITION OF TAX.

"(a) Application of Tax. The taxes imposed by this title upon individuals shall apply to the income of estates or of any kind of property held in trust, including—

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"(b) Computation and Payment.—The tax shall be computed upon the net income of the estate or trust, and shall be paid by the fiduciary, except as provided in section 166 (relating to revocable trusts) and section 167 (relating to income for benefit of the grantor.) * * *" (49 Stat. 1706.)²

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“SEC. 166. REVOCABLE TRUSTS.

“Where at any time the power to revest in the grantor title to any part of the corpus of the trust is vested—

(1) “in the grantor, either alone or in conjunction with any person not having a substantial adverse interest in the disposition of such part of the corpus or the income therefrom, or

(2) “in any person not having a substantial adverse interest in the disposition of such part of the corpus or the income therefrom, then the income of such part of the trust shall be included in computing the net income of the grantor.”

“SEC. 167. INCOME FOR BENEFIT OF GRANTOR.

“(a) Where any part of the income of a trust—

“(1) is, or in the discretion of the grantor or any person not having a substantial adverse interest in the disposition of such part of the income may be, held or accumulated for future distribution to the grantor; or

“(2) may, in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income, be distributed to the grantor; or

“(3) is, or in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income may be, applied to the payment of premiums upon policies of insurance on the life of the grantor • • •

then such part of the income of the trust shall be included in computing the net income of the grantor.

“(b) As used in this section, the term ‘in the discretion of the grantor’ means ‘in the discretion of the grantor, either alone or in conjunction with

any person not having a substantial adverse interest in the disposition of the part of the income in question.' ” (49 Stat. 1707-1708.)³

“SEC. 167 (c). Income of a trust shall not be considered taxable to the grantor under subsection (a) or any other provision of this chapter merely because such income, in the discretion of another person, the trustee, or the grantor acting as trustee or cotrustee, may be applied or distributed for the support or maintenance of a beneficiary whom the grantor is legally obligated to support or maintain, except to the extent that such income is so applied or distributed. In cases where the amounts so applied or distributed are paid out of corpus or out of other than income for the taxable year, such amounts shall be considered paid out of income to the extent of the income of the trust for such taxable year which is not paid, credited, or to be distributed under section 162 and which is not otherwise taxable to the grantor. (Sec. 167(c) was added by Sec. 134(a) of the Revenue Act of 1943.)

“SEC. 181. I.R.C. PARTNERSHIP NOT TAXABLE.

“Individuals carrying on business in partnership shall be liable for income tax only in their individual capacity.

“SEC. 182. I.R.C. TAX OF PARTNERS.

“In computing the net income of each partner, he shall include, whether or not distribution is made to him—

“(a) As part of his gains and losses from sales or exchanges of capital assets held for not more than 6 months, his distributive share of the gains and losses of the partnership from sales or exchanges of capital assets held for not more than 6 months.

“(b) As part of his gains and losses from sales or exchanges of capital assets held for more than

6 months, his distributive share of the gains and losses of the partnership from sales or exchanges of capital assets held for more than 6 months.

“(c) His distributive share of the ordinary net income or the ordinary net loss of the partnership, computed as provided in section 183 (b).”

“SEC. 183. I. R. C. COMPUTATION OF PARTNERSHIP INCOME.

“(a) General Rule.—The net income of the partnership shall be computed in the same manner and on the same basis as in the case of an individual, except as provided in subsections (b), (c) and (d).” Exceptions not material here.)

¹Rev. Act 1938, P. 22 (a), 52 Stat. 457, and I. R. C., P. 22 (a), are identical.

²Rev. Act 1938, P. 161 (a), (b), 52 Stat. 517, is identical and I. R. C., P. 161 (a), (b), is identical in all material respects.

³Rev. Act 1938, PP. 166 (1), (2); 167 (a) (1), (2), (3), (b), 52 Stat. 519, and I. R. C., PP. 166 (1), (2); 167 (a) (1), (2), (3), (b), are identical.

